369.

# SUPREME COURT OF THE UNITED STATES.

## No. 201.

THE UNITED STATES, APPELLANTS,

vs.

HEIRS OF RAFAEL GOMEZ.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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GIDEON, print.

*Transcript of the proceedings in case No.* 195, *heirs of Rafael Gomez, claimants,* vs. *The United States, defendant, for the place named "Los Tularcitos," Monterey county.*

OFFICE OF THE BOARD OF COMMISSIONERS
*To ascertain and settle the private land claims in the State of Cal'a.*

Be it remembered, that on this twentieth day of "April," anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of heirs of Rafael Gomez, for the place named "Los Tularcitos," was presented and ordered to be filed and docketed, with No. 195, and is as follows, to wit:

(Vide pages 5 and 6 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SATURDAY, *April* 23*d*, 1852.

In case No. 195, the Heirs of Rafael Gomez, the deposition of David Spence, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed, and is in the words and figures as follows, to wit:

(Vide pages of this Transcript, 6, 7, and 8.)

SATURDAY, *May* 8*th*, 1852.

In case No. 195, the Heirs of Rafael Gomez, the deposition of David Spence, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed, and is in the words and figures as follows, to wit:

(Vide pages of this Transcript, 8 and 9.)

WEDNESDAY, *May* 18*th*, 1852.

The following cases were set for hearing and transferred to the trial docket, viz:

No. 191—Charles Walters.
No. 195—Heirs of Rafael Gomez.

TUESDAY, *June* 1*st*, 1852.

The following cases were set in their order for hearing, to wit:

No. 138—J. B. R. Cooper.
No. 191—Charles Walters.
No. 195—Heirs of Rafael Gomez.

MONDAY, *September 6th*, 1852.

In case No. 195, Josefa Antonia Gomez de Walters et al., heirs of Rafael Gomez, for the place called "Los Tularcitos," the counsel for the claimant presented the following motion, to wit:

*Motion to strike out name of Ja. Aa. Gomez de Walters.*

Moved, That the name of "Josefa Antonia Gomez de Walters, widow," be stricken from the petition in this case, and that the children of said Rafael be considered as the petitioners in this case.

HALLECK, PEACHY & BILLINGS,
*Atty's for Petitioners.*

Which having been sustained, it was ordered to be filed and the petition granted.

Case No. 195, Felipe Gomez et al., heirs of Rafael Gomez, deceased, for the place called "Los Tularcitos," called. The counsel for the claimants, H. W. Halleck, opened the argument and concluded.

The U. S. law agent filed his written argument.

Case submitted to the board and taken under advisement.

In the same case the counsel for the claimants submitted an authenticated copy of the original expediente, on file in the office of the U. S. surveyor general for California, heretofore filed, to wit, on the 23d April, 1852, with the petition in this case, marked Exhibit D, as evidence in this case in behalf of the claimants; also a translation of Exhibit A, marked B, which exhibit and translation are as follows, to wit, (vide pages of this Transcript, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70.)

MONDAY, *September 13th*, 1852.

In case No. 195, the Heirs of Rafael Gomez, for the place called "Tularcitos," Commissioner James Wilson delivered the opinion of the Board, declaring the claim valid.

The entering of the decree of final confirmation be reserved for a future day.

WEDNESDAY, *December* 22, 1852.

In case No. 195, Josefa Antonia Gomez de Walters et al., heirs of Rafael Gomez, for the place named "Los Tularcitos," Commissioner Harry J. Thornton delivered the opinion and decree of final confirmation of this Board.

*Order for the recording of Opinion, &c.*

Ordered, that the opinion and decree of final confirmation of this Board, delivered this day in this case, be recorded on the journal.

Which opinion and decree are in the words and figures as follows, to wit:

(Vide pages of this Transcript, 71, 72, and 73.)

*Petition.*

To the honorable Commissioners to settle private land claims in California:

The petitioners, Josefa Antonia Gomez de Walters, widow, and Felipe Gomez, Isabel Gomez, Juan Gomez, Mariana Gomez, and Rafael Gomez, children of Rafael Gomez, deceased, respectfully show:

That on the 18th day of December, A. D. 1834, José Figueroa, governor of California, by virtue of authority in him vested, granted to the said Rafael Gomez the tract of land called "Los Tularcitos," situate in the present county of Monterey, containing six square leagues of land, a little more or less, as shown by the map accompanying the possession.

That said grant was approved by the deputation of California on the 29th day of August, A. D. 1835.

That on the 5th day of February, A. D. 1836, the said tract of land was duly surveyed, and the juridical possession of it given to the said Gomez; a copy of which grant, approval, map, and juridical possession, is submitted herewith marked "A," with a translation marked "B."

That the said Rafael Gomez died on the 18th day of September, A. D. , leaving the petitioners his widow and heirs.

That the said tract of land has not been surveyed by the Surveyor General of the United States, but that it was duly surveyed, and its boundaries marked out, at the time of giving the juridical possession of it.

That the said Rafael Gomez, and the petitioners, his heirs, have been in the quiet, peaceful and undisputed possession of the said tract of land for about twenty years, and that the petitioners are now in such possession and occupation.

That they know of no conflicting claim.

That they rely for confirmation of title upon the original papers, copies of which are submitted herewith; upon the records and minutes in the archives, now under charge of the surveyor general; and upon such other and further proofs as they may be advised are necessary.

Wherefore, they pray the commissioners to confirm to them the said tract of land.

By their Att'ys,

HALLECK, PEACHY & BILLINGS.

Filed in office April 20th, 1852.

(Signed) GEO. FISHER, *Sec'ry.*

OFFICE OF THE BOARD OF COMMISSIONERS
OF CALIFORNIA LAND CLAIMS.

SAN FRANCISCO, *April* 23*d*, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came David Spence, a witness produced in behalf of the claimant, Rafael Gomez, and docketed No. 195. The witness being duly sworn testified as follows—the U. S. law agent being notified and attended, by Mr. Greenhow:

*Deposition of David Spence.—Questions propounded by Claimant.*

Question 1st. State your name, age, and place of residence; what offices you held in California; what you know about the usages and practices of governors to grant lands on the seacoast; what you know about the rancho of "Los Tularcitos," its occupation and ownership; and also what you know about the documents now before you, and whether true copies are filed in the office of the secretary of the board of land commissioners.

Ans. My name is David Spence; my age is fifty-three years; I have resided 28 years in California; I have held the offices of alcalde and judge of first instance, of prefect, and was a member of the legislative body of California, under Governor Chico and under Governor Micheltorena. I have been well acquainted with the governors of California, ever since I came into the country. I know that they granted lands within ten leagues of the coast, the same as elsewhere in California, to native and naturalized citizens of Mexico, and I never heard any of the governors or members of the legislative body, or other authorities under the Mexican government, question the authority of the governors to make such grants; nearly all the grants made until a few years of the time when the Mexican government ceased in California were made within 10 leagues of the coast. The ten leagues referred to in the law of 1824 were understood to refer to colonization by foreigners, not Mexican citizens. I know the rancho of "Los Tularcitos;" Rafael Gomez occupied this land from some time in 1834, to the time of his death, which took place about the 18th day of September, A. D. 1838, and since that time his widow and children have been, and now are in the quiet, peaceful, and undisputed possession of said tract of land. Gomez built a house on the land some time in 1834 or beginning of 1835, and it has ever since been occupied by said Gomez, his family, or his or their servants. I never heard their title disputed, or any conflict of boundaries with any other person. I am acquainted with the signatures of José Figueroa, Agustin Y. Zamorano, José Castro, F. del C. Negrete, Rafael Gomez, Marcelino Escobar, José Aguilar, José Maria Maldonado, Teodoro Gonzales, Juan Arroyo, and their signatures to the documents before me are genuine; the documents are genuine, and originals. I have compared them and the attached map with the documents filed as exhibit "A," in claim No. 195, in the office of the secretary of the land commissioners, and find the latter to be correct copies.

D. SPENCE.

Sworn to and subscribed before me—the law agent of the United States declining to put any cross-interrogatories—this 23d of April, 1852.

HARRY J. THORNTON, *Com'r, &c.*

Filed in office, April 23d, 1852.

(Signed) GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COM'RS OF CALIFORNIA LAND CLAIMS, SAN FRANCISCO, *May 8th*, 1852.

On this day, before me, Hiland Hall, one of the commissioners of California to ascertain and settle private land claims, came David Spence, a witness produced in behalf of the claimants, heirs of Rafael Gomez, whose petition is number 195 on the docket of the Board, and was duly sworn.

The law agent was notified and attended.

*Deposition of David Spence.*

In answer to questions put by counsel for claimant, the witness testified as follows:

1st Question. What is your name, age, and place of residence?

Answer. My name is David Spence; my age is 53 years; I reside in Monterey, and have resided in California 28 years.

2d Question. Do you know the signatures of Martin Sanchez Cabello and Julian Estrada; if so, are their signatures to the papers before you genuine; is this document genuine, and the last will and testament of Rafael Gomez; and is the paper marked Exhibit "C," filed in claim No. 195, a true copy of this original?

Answer. I know the signatures of Martin Sanchez Cabello and Julian Estrada; their signatures to the paper before me are genuine, the paper is genuine, and the last will and testament of Rafael Gomez, and the paper marked Exhibit "C," in claim No. 195, in the office of the secretary of the commissioners, is a true copy of this original. Under this will, Rafael Gomez, of the claimants, is the posthumous child referred to in the said will, and was born soon after his father's death.

D. SPENCE.

Subscribed and sworn before me, HILAND HALL, *Com'r.*

Filed in office, May 8th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

1 S. D. K.—No. 57.

*D.—Espediente sobre el Parage nombrado Los Tularcitos, pr. Rafael Gomez.*—95.

2 S. D. K.—Cello Tercero, Dos Reales.

*D.—Espediente.*

Habilitado povisionalmente por la administracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y tres, y mil ochocientos treinta y cuatro. JOSE RAFAEL GONZALES.

FIGUEROA.

S'or Gefe Superior Politico:

El ciudadano Rafael Gomez, Asesor de este Territorio por el recurso mas conforme á derecho ante V. S. dice; que en el año pasado de 1830, hijo el ocano ql. devidamente acompaño con el objeto de consequir un terreno ql. cultivar y poblar de ganado, el qe. en efecto se le concedio, aunque no llego a tener efecto por la oposicion del padre ministro de la mision de S. Rafael, visible en las tres cartas qe., en debida farma adjunta que allará, que a care sin a quel embaraso pudiera lograr lo projectado hay el nuebo de estar informado qe. V. S. trada de formar un presidio ó poblacion en el parage concedido, por lo que, y estar remetto á dedicarse à la agricultura, occurre á la notoria justification de V. S. para qe. si en efecto se convierte el terreno referido en establecimiente publico, en razon indemnizacion por el derecho que le anote á el, ó en contemplacion á estar casado en el Territorio tener dos hijos, y en obsequio de los deseos del Supremo Gobierno qe. intenta publar y hacer productivos los terrenos qe. hay incultos repite ql. occana à V. S. solicitando le concedo el que se conoce con el nombre de *Tularcitos*, que reconoce la mision del carmelo por suyo, aunque sin titulo y sin ocuparlo; en el concepto qe. decea qe. la estension del sitio comprehenda el maximam qu. por la ultima ley de colonizacion pue de concedene, y en el de que en el caso de agraciarlo, introducira en el acto cuatro cientos ca bezas de ganado mayor, y cien del menor.

A. V. Suplica defiera a su solicitud por ser de justicia qe. fide. Jura lo necesario, Monterey, Marzo 7, de 1834.

RAFAEL GOMEZ.

En esta fha se dio cuenta con el espediente, y paso à la comision de colonizacion. Monterey, Abril 5, de 1834.

JOSE MARIA MALDONADO, *Sec'rio.*

SANTA BARBARA, *Marzo* 26, *de* 1834.

De conformidad con las leyes de la materia informe, el Yllustre Ayuntamiento de Monterey, ir el interasado en esta instancia obtiene los requisitos prevenidos para ser atendido en su solicitud: si el terreno que pretende esta comprendido en las veinte leguas limotrofes y dies litorales que espresa la ley 18 de Agosto de 1824; si es de regadio temporal ó abrevadero, si pertenace á propiédad particular, corporacion, pueblo ó mision con todo lo demas que sea conserviente a illustra la materia.

Evacuado este informe pasara el espediente con igual objeto al R. P. ministro de la mision de San Carlos, para que esponga lo que le occurra sobre el particular.

El S'or General de Brigada, D. José Figueroa, commandante general y Gefe Superior Politico del Territorio de la Alta California, asi lo mando, decreto y firmo, de que doy fé.

JOSE FIGUEROA.

*P'or del au'sa Secret'o,* BERNARDO NAVARRETTE.

4 S. D. K.—Sello Tercero, Dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y tres, y mil ochocientos treinta y cuatro.

JOSE RAFAEL GONZALES.

FIGUEROA.

Y. Ayuntamiento:

La comision de colonizacion y terrenos valdios a quien se pase este espediente pa. que estendiese el dictamen correspondiente se habera abstenido de ejecutarlo en lo principal hasta que el interesado acompaño el diseño del terreno prevenido en el articulo 2, del reglamenta de colonizacion pr. ser este un requisito escencial en instancia de esta clase, y por que se contrahe el superior decreto del S'or Gefe Politico: mas reflecsionando la comision, qe. à la autoridad politico le corresponde ecsigir el requisito indicado, y que podra dictaminar a poyandose en el informe de sujetos, que tienen conocimiento del terreno pretendido pasa à esponer qe. el sitio nombrado Los Tularcitos, que solicita el ciud'no Rafael Gomez, asesor del territoria es valdio en razon de no pertenece a propiedad particular, corporacion ó pueblo, ni a la Mision del Carmelo, por que ni tiene titulo a el ni lo ocupa en cuyo unico caso podria impedir su colocacion, segun el articulo 17, del reglamento citado, de 24 de Nobe., de 1828.

El tal terreno es de abrevadero, y solo la industria podria lograr el cultivo de regadio y de temporal: Esta comprendido en las diez leguas litorales, y en las 20 limitrofes que es presa la ley de 18 de Agosto, de 1824, y el pretendiente, obtiene todos los requisitos prevenidos pa. su atendido en su solicitud con la particular recomendacion de haberse prestado siempre à auxiliar à este ayuntamiento con de nativos, prestamos ofrecidos y ser un vecino util à la municipalidad, por todo concluze la comision ofreciendo à la deliberacion de este Y. ayuntamiento los siguientes proposiciones:

[5 S. D. K.]

1o. De be considerse al ciud'no Rafael Gomez, asesor del territorio el terreno nombrado Los Tularcitos, en razon de ser acredor à esta gracia si asi lo aprobare la superioridad.

2o. Que para dar el lleno al superior decreto ql. acompaño esta solicitud pase al R. P. M. de la Mision de San Carlos, para que dictamine segun le parezca.

JOSE AGUILA,
JOSE ANTONIO ROMERO.

Monterey, 11 de Abril, de 1834.

Con esta f ha pasa este espediente al R. P. M. de la Mision de San Carlos, con el objeto que indica el superior decreto, de 26 del mes pp'do.

JOSE MARIA MALDONADO,
*S'crio.*

Monterey, Abril 12, de 1834.

S'or—

6 S. D. K.—[Sello Tercero, Dos Reales.

Habilitado provisionalmente por la admistracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

FIGUERO. RAFAEL GONZALES.]

—Gefe Superior Politico:

El Y. ayuntamiento de esta capital, con el objeto de dar el informe ql. el Sr. asesor del territorio, ha hecho pa ql. se le conceda el terreno nombrado los "*Tularcitos*," oyó à la comision respectiva cuyo dictamen constante a fo. 2, no tubo embaraso en aprobarlo en sesion del dia 12 pp'do, por ql. los conceptos vistados por la comision, son los mismos en ql. abundan esta corporacion. En debido complimiento de superior decreto de V. S. de 26 de Marzo, ultimo, sepasó el espediente al R. P. M. de la Mision de San Carlos, qu. lo ha evacuado en el pliego de papel comun ql. se acompaña pr. acuerdo habido en sesion de 3 del presente.

MANUEL JIMENO CASARIN.
JOSE MARIA MALDONADO,
*S'crio.*

Monterey, 5 de Mayo, de 1834.

7 S. D. K.

En atencidu al espediente q'l se me ha dirigido pa. q'l exponga lo q'l hubiese sobre el particular; digo q'l hacen q'l la comision de colonization haya declarado q'l el sitio llamado Los Tularcitos, pr. valdio en razon de no pertenecer a propriedad particular, corporacion ó pueblo, ni a la Mision del Carmelo, pr. q'l no tiene titulo de el ni le ocupa, espóga q'l la mision siempre lo ha reconocido pr. sullo como consta pr. el informe q'l se dio, q'do se hizo el reconocimiento de lo q'l las Misiones reconocian pr. sullo igualm'te siempre lo ha occupado, y lo ocupa siendo muy necesario pa. sus ganados menoses, en la mayor parte del año, y no teniendo otra parte adonde poder los mudar seria hace los un daño muy grave ha estos infelices pr. los detrimintos q'l podecinau si se les quitase huna propriedad q'l siempre han reconocido pr. sulla, no siendo ellos acreedores tanto pr. los servicios q'l han prestado y prestar continuam'te como pr. la consideracion ql. se

[8 S. D. K.]

les debe tener pr. ser hunos seces degradados, y q'l pr. faltar de conocimiento de los q'l han informado en la posecion de otras ranchos ql. han perdido haun ciendoler muy utiles, ha horo se lamentan de los perdidos q'l han parrecido siendo imposible remediarlas; á lo qe. digo q'l hemos de obrar en justecia no hai lugar á la petition del *del* interesado, no oponiendome á ninguna orden superior en ql. solo procurare eximir me del carjo de esta.

F. JE. MA. DEL REFUGIO,
*Z. del Real.*

San Carlos, Abl. 25, 1834.

9 S. D. K.

MONTEREY, 8 *de Eno., de* 1831.

En consideracion á que es de suma importancia á la seguridad y integridad del temito. nacional el que . . . . haya poblacn. en la parte de terreno ql. media entre la Mision de San Rafael y el establecim'to Ruso del Puerto de Bodega, que sirba como de barrera pa. impedir cualquiera incursion de los estrangeros pa. posesionarse de él, como lo han hecho del que ocupan y à que el reverendo padre de la citada mision, temeroso de ql. asi suceda pr. el antecedente de un reconocimiento ql. hicieron en el año pasado escito á este Gobio. pr. que se ponga a cubierto: a que es de esperarse reduscan muchos de los indijanas ql. llaman Jentiles habiendo poblacion en ese desierto, y á ql. el solicitante Licenc'do C. Rafael Gomez tiene haberes pa. llevar adelante sus proyectos de agricultura y créanza de ganados le concedo del mencionado terreno la parte conocida con el nombre de Sta. Rosa, en la cantidad ql. previene el arto. 12 del decreto sobre colonizacion de 18 de Agosto, de 24, con las demas sujeciones ql. en el se previenen, y en calidad de provicional ht'a la reunion de la Ex'ma Diputac'n resenandose pa. cuando tenga la propiedad, la posecion judicial; en el concepto de que no comensara ninga. obra en el citado terreno sin previa atencia del respectivo padre misionero ql. hara constar a este Gobierno con oportunidad, y de que no se posecionara de aguella parte que habitenó cultiven los Jentiles, ya esten reunidos en tribus rancheria ó en lo particular cada uno de la inmediata ql. mas le acomode, de modo ql. no se les inquiete y perjudique procurando pr. el contraro. atraerlos y civizarlos como ofrece; dandoles suertes de tierra para que se vaya formando una poblacn. lo mas ordenada posible. En cuanto à los presidarios de des ql. habla; como que van á concurrir el indicado objeto mas recomendable sin duda, ql. el de la ley de 14 de Octubre, de 823, se le franguera

[12 S. D. K.]

los ql. no hagan falsa en sus trabajos indispensables de la guarnicion de S. Francisco bajo las condics. que espresa la 2a pte. del arto. 20 de esa ley, y con la que estipula el interesado, advirtiendose, ql. ni de sus terrenos diere à estos y à los Jentiles, se le indemnizara con otros equivolentos.

ECHEANDIA.

Sello 3o—Dos Reales.

Habilitado provisionalm'te por la comis'n suborltana interina del Pto. de Monterey, pa. los años de 1830 y 1831.

ECHEANDIA. OSIO.

Sr. Comand'te Gral. y Gefe S. Politico:

El Ciud'no Lic. Rafael Gomez, originario del pueblo de Ameca, del estado de Jalisco, y asesor de este Territorio de la Alta California, como mas haya lugar en derecho ante V. S. parezco y digo; que deseando por mi parte llenar el objeto que se propuso el soberano Con-

greso gral. al dictar su dto. de 18 de Agosto, de 1824, sobre colonizacion, he resuelto verificarlo en el terreno nombrado Santa Rosa, del que accompañaria el diseño prevenido en el arto. 2 de las disposiciones del supmo. Gobierno de la Union espresadas en 24 de Noviembre, de 1828, sobre el particular; sino me lo embarazara carecer de sujeto que lo forme y no ser de facil practica, por estar ocupado de gentilidad. No obstante, cumplire con este requisito tan luego como pueda salvar las dificultades referidas.

La que ofrece mi solicitud en tener por objeto un terreno que reconoce por suyo la Mision de Sn. Rafael, con lo que parece se contravience al arto. 17 de las disposiciones generales citadas; no lo es en la realidad y menos para V. S. que esta instruido de que el padre de aquella Mision, no solo no resistira la concesion sino que por el contrario lo desea por las razones de politica que ha hecho presentes varias veces al Gobierno del cargo de V. S. y que no me es permitido referir.

Sin embargo, son tan imperiosas en mi concepto que sin atender al bien particular mio, lo es y muy grande para el Gobierno resultandole tambien el ahorro degastos que tendria en la manutencion de los diez y seis presidarios ql. estan en el Puerto de San Francisco, que hare por mi cuenta pagandoles á mas su competente jornal desde el dia que se pongan á mi disposicion en aquel punto.

Estos son los brazos con que intento principiar el cultivo del repetido terreno, apoyando esta nueva solicitud, en la 2a. parte del arto. 20 del dto. de 14 de Octubre, de 1823, en el concepto de que tendre libertad para devolverlos todos ó parte, cuando por sus vicios ó incorregibilidad los juzque inutiles.

Me parece preciso hacer presente á V. S. que en relacion á los gentiles que ocupan el terreno y los mas que quieran avecindarse en el, seran tratados con la humanidad propia de nuestro Gobierno y de que es idolatra el ql. representa.

Tambien procurare la civilizacion de los referidos indiginas, en los respectos moral y politico; contando al efecto con el ausilio del R. Padre Fr. Antonio Menendes, que llebare con migo en calidad de Capellan.

Por todo lo espuesto á V. S. suplico se sirva concederme el mencionado terreno de Sta. Rosa, con la estencion ql. pudiere cultivar con labores y ocupar con ganado; bajo la protesta que hago de no traspasar los limites del arto. 12 del dto. respectivo; todo con la calidad de provisional, pr. reservar la solicitud pa. obtener la propriedad hasta la reunion de la Ex'ma Diputacion Territorial.

[14 S. D. K.]

A V. S. suplico decrete de conformidad por ser de just'a que pido. Juro, &c.

S'n Carlos, D'bré 23, de 1830.

RAFAEL GOMEZ.

15 S. D. K.

*Viva † Jesus.*

MISION DE S. RAFAEL, *Febrero* 7, *de* 1831.

Muy dueño y S'r Don Rafael Gomez:

Salud y gracia en Jesu Christo: recibi su unica y apreciable del 27 de Enero, relativo á la pretension del rancho de conquisto de Santa Rosa; es verdad que algo excive para la conservacion de aguella nuestra conquista; y dando instruccion para sostener los derechos de la republica pues me considera obligado ello; y por la gracia de Dios ya se han desvanecido los projectos que se intentavan. Ya este año sembramos algo y esperamos sembrar mas todo para mayor incremento: Como este año toda aguella sierra ha estado escasisima de semillas gentilicas ni bellotas; los gentiles han tenido que salirse y venirse por las cercanias de S. Rafael para hallar que comer; hasta ultimos de Agosto no puedo contestar àsu favorecida pretencion interinamente solo puedo decirle que para pasar á ocupar aquellas tierras se requiere singular vocacion, por que la indiada es bravita, sus territorios ventajosos para ellos, y entre ellos no anda quien quiere; diez años hace que hago todo diligencia de suavidad para atrearlos á la mansedumbre y conocimiento de Dios he podido lograr visitarlos, lo que no han podido los soldados ni otras gentes de razon, la rancheria indicada de gentiles que es de distinto idioma es muy encarecida y la mas bellisica; el verano pasado fueron gentes de razon para acariciarlos no pudieron lograr entrar en su rancheria tuvieron que regresarse, y me dejeron se vieron bien apurados, y sin ganas de bolver otra vez.: Yo fue despues guardando todas las precauciones y logre estar y quedar una noche entre ellos, les hable y trate lo mas conveniente para su salud, y comprendi que solo con mucha cantela se podia estar entre ellos. Y como tenemos la experiencia de los cuydados en que estuvo la Mision de S. Francisco Solano, los tres primeros años siendo asi que estava surtida de Cristianos viejos y bien ladinos se vio en sus apuros, y tuvo sus averias á pesar de que estava guanicida de mucha tropa el sitio apartado de la gentilidad y favorecida de buen desembarcadero. Finalmente me repito le escribiré al tiempo indicado practicare todas las diligencias para que se llenen nuestras desios; no es bueno andar precipitado por no perder lo que vamos adelantadas af'mo servidor.

J. JUAN AMOROS.

*Viva † Jesus.*

S. RAFAEL, *Marzo* 5, *de* 1831.

Muy dueño y Sr. D. Rafael Gomez:

Salud y gracia en Jesu Christo: recibi su apreciable; en modo de pensar fueron ya en las diligencias que he practicado; como yo he tenido que comunicarla cosa con el prelado, para que vaya todo como me veo obligado y á V. M. con la propriedad que le deseo; este es el

unico fin que quedo decirle por ahora; una completa respuesta, todo quanto se procura en la conquista por lo presente todo espero de Dios resultara para el bien estar de todos. Luego reciba la contestacion del prelado, le escrivire; que mis deseos todos se inclinan á su favor; paselo felismente y manda á S. S. que de veras lo ama y B. S. M.

J. JUAN AMOROS.

[*Note by the Sur'r Gen'l.*—The following is the direction on the outside of the above letter:]

Al Sr. Don Rafael Gomez, Asesor ql. Dios g'do en la Mision de S. Carlos.

17 S. D. K.

*Viva † Jesus.*

S. RAFAEL, *Mayo* 10, *de* 1831.

Muy dueño y Señor D'n Rafael Gomez:

Salud y gracia en Jesu Christo: acabo de recibir la contestacion de mi Prelado el Presidente F. José Sanchez, sobre las tierras del rancho de Santa Rosa; y me dice no es de su aprobacion el que se cedan; y asi yo como subdito debo conformarme al parecer del prelado todo quanto yo le escrivi todo era en favor de V. M. pero los prelados saban mas y asi devemos venerar sus contestaciones; por otra parte el Sr. General me dixo que alli se havia de poner una mision (que este mesor) y que havia ya hablado con V. M. para que depena lo projectado; por tanto esta es la contestacion que puedo darle sobre el asunto la tardanza vera como todo provenia de que yo sin el conocimiento del prelado no hubiera obrado bien. Paselo felizmente y vea en que puede serle util su a. S. S. Q. S. M. B.

J. JUAN AMOROS.

P. D. le incluyo una estampa del Sr. S. Rafael, para que en compaña de su amada esposa tengan un buen protector en su santa vision. Vale.

[*Note by the Sur'r Gen'l.*—The following is the direction on the outside of the foregoing letter:]

Al. Sr. D'n Rafael Gomez, Asesor que Dios g'a en la Mision de S. Carlos.

18 S. D. K.—Sello Tercero, Dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

RAFAEL GONZALES.

FIGUEROA.

S'or Gefe Sup'r Politico:

El Ciud'no Rafael Gomez, como mas haya lugar en derecho, ante V. S. comparece y dice, que en la solicitud que hizo en 7 de Marzo ultimo, en pretension del terreno llamado Los Tularcitos, no desconoce ql. devia haber acompañado el diceño del terreno de conformidad con lo prevenido en el art'o 2o. del reglamento de colonizacion mas por falta de oportunidad pa. reconocer el sitio incurrio en la falta dicha q'l subsana ahora acompanandolo en debida forma, en el concepto q'l de la Barranca al Norte, pide dos leguas y para las otras direcciones hasta el completo del macsimun que permite se conceda de abrevadero, la ley de 18 de Agosto, de 1824.

A. V. S. suplico q'l teniendolo por presentado en tiempo y forma se sirva mandar agregar este a sus antecedentes, para que surta los efectos q'l haya lugar; juro lo necesario, &c.

RAFAEL GOMEZ.

[19 S. D. K.]

Monterey, Mayo 5, de 1834.

MONTEREY, 9 *de Mayo, de* 1834.

Agreguese al espediente de la materia.

FIGUEROA.

21 S. D. K.—Sello Tercero, Dos Reales.

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey, para los años de mil ochocientos treinta y cuatro, y mil ochocientos treinta y cinco. RAFAEL GONZALES.

FIGUEROA.

MONTEREY, *Mayo* 9, *de* 1834.

Siendo el terreno solicitado en este espediente de los que ha reconocido por suyos y poseido la mision de San Carlos, suspendase por ahora la continuacion y resolucion de dicho espediente hasta que se ponga en ejecucion la ley de 17 de Agosto, del año pp'do, y llegue el S'or Gefe Superior Politico Dn. José Maria Higar, á quien el supremo govierno ha conferido la comision especial de distribuir los terrenos. Hagasele saber á la parte para los ocursos que le convengan y reserva el espediente para dar cuenta a su tiempo.

El Sor. D. José Figueroa, Gen'l de Brigada, Comandante General Inspector y Gefe Superior Politico de la Alta California, asi lo mando, decreto y firmo, de que doy fé.

JOSE FIGUEROA.

AGUSTIN V. ZAMORANO, *S'rio.*

En quince dias del mes de Mayo, de mil ochocientos treinta y cuatro, habiendo ocurrido a esta Secretaria, el Lic. D. Rafael Gomez, se le hizo saber el decreto, que antecede del Senor Gefe Superior Politico del Territorio, y enterado de el dijo que lo oye y queda conforme añadiendo la suplica de q'l se le de diera testimonio del superior decreto q'l se le hace saber; esto respondio y firmo con migo el secretario.

AGUSTIN V. ZAMORANO,

[22 S. D. K.] RAFAEL GOMEZ.

MONTEREY, 31 *de Octubre, de* 1834.

Ynforme el comisionado Don Joaquin Gomez, si el terreno de los Tularcitos solicitado por D. Rafael Gomez, hara falta á los indigenas en la distribucion de terrenos, que les ha de hacer. El S'or D. José Figueroa, general de brigada, comandante general, Ynspector y gefe superior politico del territorio de la Alta California, asi lo mandó, decreto y firmo, de ql. doy fé.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *S'rio.*

S'or Comandante G'ral y Gefe Sup'or Politico:

El potrero que esta frente á la Mision es mas que suficiente para el reparto, que esta mandado hacer á los indiginas, por la grande estencion de aquel y corso numero de estos, por esto y no hacerse ninguno del terreno de los Tularcitos cres que se hara falta al tiempo de la distribucion de tierras; y es cuanto puedo informar á V. S. en complimiento de su sup'r antecedente decreto. Monterey, 20 de Nov're, de 1834.

JOSE JOAQUIN GOMEZ.

Mon—

23 S. D. K.

[Sello Tercero, [Place of the seal in the original.] Dos Reales.

Para los años de mil ochocientos veinte y seis y ochocientos veinte y siete.]

—terey, Deciembre 1o, de 1834.

[Seal on the original for the years 1828 & 1829.]

[Seal on the original for the years 1830 & 1831.]

[Seal on the original for the years 1832 & 1833.]

[Seal on the original for the years 1834 & 1835.]

Vista la peticion con ql. da principio este expediente el informe de la autoridad municipal de esta capital el del R. Padre Ministro de la Mision de San Carlos, y el de su comisionada; la esposicion de testigos con todo lo demas que se tubo presente y ver convino de conformidad con lo dispuesto por las leyes y reglamentos de la materia se declara al Licenciado Don Rafael Gomez dueño, en propriedad del terreno conocido con el nombre de los Tularcitos colindante con la Barranca Blanca, laguena de los Conejos, sierra del Tularcito y sierra de Tasshaguan, sujeto á las condiciones ql. se estipularen; librese el despacho correspondiente, tomese razon en el libro respectivo y dirijase este expediente para la devida aprovacion á la excelentisima diputacion territorial, en cuyo caso el interesado á quien se le hara saver este decreto presentara nuevamente su titulo para ql. se revalide. El S'r D. José Figueroa, general de brigada, comandante gen'l, ynsp'r y gefe superior politico de la Alta California, asi lo mandó, decreto y firmo, de que doy fé.

JOSE FIGUEROA.

24 S. D. K.

José Figueroa, General de Brigada de la Republica Mejicana, Comandante General, Inspector y Gefe Superior Politico del Territorio de la Alta California.

Por cuanto el C'no Licenciado Raf'l Gomez, Mejicano por nacimiento, ha pretendido para su beneficio personal y el de su familia, el terreno conocido con el nombre de los Tularcitos, colindante con la Barranca Blanca, laguna de los Conejos, sierra del Tularcito y sierra de Tasshaguan; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos; usando de las facultades ql. me son conferidas; á nombre de la nacion Mejicana he venido por decreto del dia primero del coniente mes en concederle al espresado C'no Licenciado Rafael Gomez, el mencionado terreno de los Tularcitos, declarandole la propiedad de el pr. las presentes letras, entendiendose dicha concesion con entera conformidad á lo dispuesto pr. las leyes á reserva de la aprovacion ó desaprovacion de la ex'ma diputacion territorial, y del sup'mo gobierno, y bajo las condiciones siguientes:

1a. Que se sometara á las ql. estableciere el reglamento ql. se ha de formar pa. distribucion de terrenos baldios, y que entre tanto ni el agraciado ni sus herederos podran divider ni enagenar el que se le adjudica; ni ponerlo senso, vinculo, fianza hipoteca, ni otro gravamen aunque sea por causa piadosa, ni pasarlo á manos muertas.

[25 S. D. K.]

2a. Podra cercarlo sin perjudicar las travecias caminos y servidumbres; lo disfontara libre y esclusivamente destinandolo al uso ó cultivo ql. mas le acomode pero dentro de un año, á lo mas fabricara casa y estará habitada.

3a. Cuando se le confirme la propiedad solicitará del juez respectivo le di posecion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites podran á mas de las mohoneras algunos, arboles, frutales, ó silvestres de alguna utilidad.

4a. El terreno de ql. se le hace donacion es le seis sitios de ganado mayor, pocomas ó menos segun esplica el diseño. El juez que diere la posecion lo hara medir conforme á ordenanza pa. señelar los linderos, quedando el sobrante ql. resulte á la nacion pa. los usos convenientes.

5a. Si contraveniere á estos condiciones perdera su derecho al terreno y sera denunciable pr. otro.

[26 S. D. K.]

En consecuencia mando, que sirviendole de titulo el presente y teniendose pr. firme y valedero se tome razon en el libro á que corresponde y se entreque al interesado pa. su resguardo y demas fines.

Dado en Monterrey, á 18 de Deciembre, de 1834.

JOSE FIGUEROA.

AGUSTIN V. ZAMORA, *So.*

Ag'to 27, *de* 1835.

En sesion de este dia accorde la E. diputacion pase à la comision de terrenos valdios.

FIGUEROA.
JOSE MARIA MALDONADO, *S'rio.*

27 S. D. K.

Ex'mo Sr.:

La comision de terrenos baldios impuesta del espediente ql. se mando practicar pa. pretension que al Ciud'o Rafael Gomez, hizo al paraje nombrado Tularcitos, no en contrandose en el objecion alguna ql. hacer y ciendo en todo conforme á la ley de 18 de Ag'to, de 1824, como el art'o 5 del reglamento de V. S. de Nov're de 1828, ofrese á la deliberacion de V. E. la siguiente proposicion.

Se aprueba la consecion hecha al C. Rafael Gomez del paraje nombrado Tularcitos, conocido a 18 de Deciembre, de 1834.

JOSE CASTRO.

Ag'to 29, *de* 1835.

En sesion de hoy aprovo la E. D. el dictamen ql. antecede y para el esped'te al S. G. Politico pa. su conclusion.

JOSE CASTRO,
JOSE MARIA MALDONADO.

28 S. D. K.

Sello Cuarto de Oficio.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterrey de la Alta California, para los años de mil ochocienots treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

FIGUEROA.

MONTERREY, *Obre.* 12, *de* 1835.

En vista de la aprovacion otorgada el die veinte á nuebe de Agosto pr. la E. diputacion.

Territorial livrese testimonio de ella y de esta decreto á la parte de D'n Rafael Gonzales, en conformidad á la concesion del terreno conocido con el nombre de Tularcitos, q e obtevo en de 18 de D'bre, de 1835. El S. D. José Castro, primer vocal de la exma. diputacion territorial é gefe politico interino, asi lo mandó, decreto e firmo, de ql. doy fé.

JOSE CASTRO.

Se le estendio el testimonio de la aprovacion de la E. D. T.

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA:

I, Samuel D. King, Surveyor General of the United States for the State of California, and as such now having in my office and under my charge and control a portion of the archives of the former Spanish

and Mexican territory or department of Upper California, do hereby certify that the twenty-eight preceding and hereunto annexed pages of tracing paper, numbered from one to twenty-eight inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., this tenth day of April, 1852.

[S. D. K.]

SAM'L D. KING,
*Surv'r Gen'l Cal.*

Filed in office, April 20th, 1852.

Stamp Third, Two Reales.

Provisionally authorized by the administration of the maritime custom-house of Monterey, for the years 1833 & 1834.

JOSE RAFAEL GONZALES.

FIGUEROA.

*Translation of Espediente.—D.*

Señor Superior Political Chief:

Citizen Rafael Gomez, Assessor of this Territory, duly appears before your excellency and says: That in the year 1830 he instituted the proceedings sent herewith for securing á land for cultivation and stocking with cattle, which was in reality granted to him, but not carried into effect on account of the opposition of the priest of the Mission of San Rafael, as seen in the three letters duly sent; and if without that difficulty the project could be carried into execution, there is now a new one, as I am informed that your excellency is intending to form a presidio or town in the place granted; wherefore, and as I wish to dedicate myself to agriculture, I come to the well-known justification of your excellency, in order that if, in fact, the said land is to be converted into a public establishment—as an indemnification for the right which I formerly had in it; and inasmuch as I am married in the territory, have two children, and in obedience with the decrees of the supreme government to incite settlement and to make productive the lands which are cultivated, I repeat *I repeat* that I come to your excellency petitioning that you will grant me the land known by the name of Turlacitos, which the Mission of the Carmelo recognises as its own, although without title or occupation; for this purpose I desire that the extent of the place may include the maximum, which by the last law of colonization may be granted; and in case it is granted, I will introduce into the place four hundred head of large cattle, and a hundred small.

I pray your excellency to grant my request, as what I ask is just. I make the necessary oath.

RAFAEL GOMEZ.

Monterey, March 7th, 1834.

On this day took into consideration this expediente, and passed it to the committee on colonization.

JOSE MARIA MALDONADO,
*Secretary.*

Monterey, *April 5th*, 1834.

SANTA BARBARA, *March* 26, 1834.

In conformity with the laws on the matter, let the illustrious ayuntamiente of Monterey report if the party interested in this proceeding has the requisites to entitle his petition to be attended to; if the land asked for is included within the 20 boundary leagues or the 10 littoral which are mentioned in the law of August 18th, 1824; if it is irrigable—dependent on the seasons or pasture land; if it belongs to the property of any individual, corporation, pueblo or mission; and what else is calculated to illustrate the matter. Having made this report, let the espediente be passed for the same purpose to the R. Minister of the Mission of San Carlos, that he may express what occurs to him on the matter.

The Señor General of Brigade, Don José Figueroa, commandant general and superior political chief of Upper California, thus ordered, decreed, and signed, of which I certify.

JOSE FIGUEROA.

In the absence of the Secretary,
BERNARDO NAVARRETTI.

Illustrious Ayuntamiento:

The committee on colonization and vacant lands, to whom was referred this expediente to make out the corresponding report, has delayed making it, principally, to await till the petitioner should send in the map of the land provided for in article 2d of the regulation of colonization, as being an essential requisite in a proceeding of this class, and as it is required by the superior decree of the political chief; but the committee having reflected that it belongs to the political authority to exact the said requisite, and as they can report on what matters they know of the land asked for, proceed to say that the place called the Tularcitos, which citizen Rafael Gomez, assessor of the territory asks for, is vacant, as it belongs to the property of no individual, corporation, or puebla, nor to the Mission of Carmelo, as it neither has a title to it nor occupies it, by which alone its colonization could be prevented, according to article 17 of the said regulation of Nov. 21st, 1828. The land is pasture land, and industry alone could bring it into cultivation, as irrigable or dependent on the seasons; it is within the 10 littoral leagues, but not in the 20 border expressed in the law of August 18th, 1824; and the petitioner has all the requisites to entitle him to be attended to in his petition, with the particular recommendation of having always assisted this ayuntamiento with donations and loans, and as being a useful citizen of the municipality. Finally, the com-

mittee conclude offering to the deliberation of this illustrious ayuntamiento the following propositions:

1st. The land called the Tularcitas ought to be granted to citizen Rafael Gomez, assessor of the territory, as he merits this favor, if it thus please the superior power.

2d. That in order to comply with the superior decree which accompanies this petition, it be passed to the reverend father, minister of the Mission of San Carlos, for him to report as to him may appear fit.

Monterey, April 11, 1834.

JOSE AGUILA.

JOSE ANTONIO ROMERO.

On this date this expediente is passed to the reverend father, minister of the Mission of San Carlos, for the purpose indicated in the superior decree of the 26th ultimo.

Monterey, April 12th, 1834.

JOSE MARIA MALDONADO,

*Sec'y.*

S'or Superior Political Chief:

The illustrious ayuntamiento of this capitol, in order to report as your excellency requires on the expediente of the petition of the s'or assessor of this territory, for a grant of the land called the Tularcitos, having heard the respective committee whose report is sent on two pages, had no hesitation in approving it in session of the 12th ultimo, as the opinions expressed by the committee are the only ones which this corporation entertains.

In due compliance with the superior decree of your excellency, of the 26th March last, the expediente was passed to the reverend father, minister of the Mission of San Carlos, who has reported on it in a sheet of common paper, which is sent herewith as agreed in session of the 3d inst.

Monterey, May 5th, 1834.

MANUEL JIMENO CASARIN.
JOSE MARIA MALDONADO,
*Secretary.*

In attention to the expediente which is directed to me, that I should express what I have on the matter, I say, that although the committee on colonization has declared, that the place called the Tularcitos is vacant, as it belongs to the property of no individual, corporation, or puebla, nor to the Mission of Carmelo, as it neither has a title to it nor occupies it, the mission has always recognised it as its own, as is shown by the report given when an inventory was made of what the missions claimed as theirs; also, it has always occupied it, and occupying as necessary for its small cattle the greater part of the year, and having no other place to move them to, will cause a very great injury to their poor people by the damage which will result to them if the land is taken, which they have always regarded as theirs, they being

not the less deserving for the services which they have always rendered and are still rendering, and on account of the injuries they have suffered from the want of information of those who have reported on the possession of other ranchos which they have lost, although very useful; now they lament their losses, although it is now impossible to remedy them; I say, if we act justly there is no place for the petition of the party interested, not opposing any superior order, but only working for my charge.

San Carlos, April 25th, 1834.

F. J. MARIA DEL REFUGIO,
*S. del Real.*

• • • • • • • • •

Señor Superior Political Chief:

Citizen Rafael Gomez duly appears before your excellency, and says: That in the petition which he made on the 7th of March last, for the land called Los Tularcitos, he was not ignorant that he ought to have sent therewith the map of the land, in conformity with article 2d of the regulation of colonization, and for want of opportunity to examine the place he incurred the said fault, which he now rectifies by accompanying it herewith in due form, with the understanding that he only asks two leagues from the Barranca Blanca to the north, and in the other directions for enough to complete what the law of August 18th, 1824, permits to be granted as pasture land. He prays your excellency, that considering this as presented in time and form, you be so good as to order it annexed to the preceding, for the corresponding purposes, making the necessary oath, &c.

Monterey, May 5th, 1834.

RAFAEL GOMEZ.

MONTEREY, 9*th*, 1834.

Add this to the espediente on the matter.

FIGUEROA.

MONTEREY, *May* 9*th*, 1834.

The land asked for in this espediente being of those recognised as belonging to and possessed by the Mission of San Carlos, let the continuation and resolution of said espediente be suspended, until the law of August 17th of last year be put in execution, and until the Señor superior political chief, Don José Maria Hijar, arrives, to whom the supreme government has given the special commission of distributing these lands. Make it known to the party for the uses he may see fit to make of it, and reserve for use at the proper time. The Señor Don José Figueroa, general of brigade, commandant general, inspector and superior political chief of Upper California, thus ordered, decreed and signed, of which I certify.

JOSE FIGUEROA.
AUGUSTIN V. ZAMORANO,
*Secretary.*

On the 15th day of May, 1834, having appeared at this secretary's office, the Licenciado Don Rafael Gomez, he was notified of the preceding decree of the señor superior political chief of the territory, and having understood it, said he heard it, and submitted to the refusal of his petition as shown in the superior decree, of which he was notified. Answering thus, he signed with me, the secretary.

AGUSTIN V. ZAMORANO,
RAFAEL GOMEZ.

MONTEREY, *October* 31*st*, 1834.

The Commissioner D'n Joaquin Gomez will report, if the land of Los Tularcitos, asked for by Don Rafael Gomez, will be wanting to the Indians in the distribution of lands which is to be made to them. The Señor Don José Figueroa, general of brigade, commandant general, inspector and superior political chief of the Territory of Upper California, thus ordered, decreed and signed, of which I certify.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO,
*Secretary.*

Señor Commandant General and Superior Political Chief:

The Potrero in front of the mission is more than sufficient for the distribution which is ordered to be made to the Indians, on account of the great extent of that place and the small number of these, (the Indians.) For this reason, and *and* as no one in the land of Los Tularcitos, I think there will be no want of land at the time of distribution. This is what I can report to your excellency, in compliance with your foregoing superior decree.

JOSE JOAQUIN GOMEZ.

Monterey, Nov. 20th, 1834.

MONTEREY, *December* 1*st*, 1834.

Having seen the petition at the beginning of this espediente, the report of the municipal authority of this capital, that of the reverend father, minister of the Mission of San Carlos, and that of the commissioner, the deposition of witnéssas, with all else presented and proper to be seen; in conformity with the laws and regulations on the matter, I declare the Licenciado Don Rafael Gomez owner in fee of the land known by the name of Los Tularcitos, bounded by the "Barranca Blanca," the Laguna de Conejas, the Sierra of the Tularcito, and the Sierra of Tashagúan, subject to the conditions which may be stipulated. Let the corresponding dispatch issue, take note in the respective book, and direct this espediente for the due approbation to the most excellent Territorial Deputation; in which case, the party interested, to whom this decree will be made known, will present anew his title, in order that it may be revalidated. The Señor Don José Figueroa, general of

brigade, commandant general, inspector and superior political chief of Upper California, thus ordered, decreed and signed, of which I certify.

JOSE FIGUEROA.

[Here follow copy of title and proceedings of approval, which are already translated.]

Filed in office, February 10th, 1854.

GEO. FISHER, *Sec'y.*

*Exhibit "C," annexed to deposition of D. Spence.*

En el nombre de Dios, todo poderoso y de la Santisima Trinidad, Padre, Hijo y Espiritu Santo, tres personas distintas y un solo Dios verdadero, estando en la cama gravemente enfermo, pero en mi entero juicio y temeroso de la muerte que á todos es natural, para descarga mi conciencia ordeno este testamento en apuntes por no estar en parage proporcionado para que lo fuera judicialmente, declarando en primer lugar haber sido baptizado en el seno de la santa iglesia Catholica, apostolica, Romana: Creer como firmamente creo en el misterio altisimo de la santisima Trinidad, en el misterio de la encarnacion del Hijo de Dios, en las purisimas entrañas de la siempre Virgen Maria, y igualmente creo en los misterios de la pasion y muerte, resurecion y asencion de n'tro Señor Jesu Cristo, quien ha de venir a jurgarnos en aquel horrible dia de juicio en que hemos de resucitar todos y que dara á los buenos su santisima gloria, por que guardaron sus mandiamientos, y á los malos las penas del infierno por que no los guardaron. Creo en el santisimo y divinisimo sacramento del altâr, y todos las demas misterios y sacramentos, ql. cree y confiesa n'tra madre la yglesia, santa Catholica, apostolica y Romana; bajo de cuya fee y creencia protesto y es mi intencion de morir. Y asi mismo ql. por el sacramento de la penitencia se perdonan nuestras culpas.

Mando mi alma á Dios, que la crio y formó de la nada, y mi cuerpo á la tierra de que fue formado, siendo mi voluntad que mis abraceas dispongan se le dé sepultura ecc'a en el cementerio de la mision del Carmelo, con misa de cuerpo presente si hubiere proporcion de ql. se diga, y sin ninguna otra pompa. Declaro haber cido casado y velado segun el orden de n'tra Santa Madre la Yglesia, con Dona Josefa Antonia Estrada, de quien hube cuatro hijos legitimasnente; dos varones llamados el mayor Felipe y el 2o Juan Evangelista; y las mugueres Ysabel y la menor Mariana, advirtiendo que dar mi espoza embarzada, y tanto la prole ql. naciere como los cuatro citados deberan tenerse por mis herederos legitimos.

It'm. Declaro haber introducido mi muger al matrimonis doscientas reses, y yo por mi parte tres cientos una, trescientas boregas, setenta y cinco, y eguas aburradas con dos maestras de costo de dos cientos pesos. Tambien el sueldo que disfruté desde el 7 de Marzo, '831, en que me case a razon de tres mil pesos anuales (como asesor del Territorio) hasta el 22 de Mayo del año de '834, en que me fue admitida la renuncia que hize de dho. empleo, esceptuando dos mil ps. que aun me debe el

gobno. y cuyas documentos justificatiosos de la denda que daran en poder de mis albaceas, como tambien la casa de mi abitacion en Monterey. Yt'm: Declaro reconocer por mis bienes la casa antes citada, y el rancho de los Tularcitos, en que poco mas ó menos, se encontraran á la fecha mil y pico de reses: ciento y tantas y equas; dos burros maestros y dos garanones: ciento y una mulas entre mansas y cerreras; treinta potrillos, y trescientos cinco borregas de todas claces, treinta caballos mansos—dies y untas de bueyes y cabrestos—y sesenta vacas chichiguas—cinco corales de cajon, una casa techada con tule compuesta de dos piezas.

Ytem. Declaro no tener otros herederos legitimos, ni naturales que á las cuatro citados Felipe, Juan Isabel, Mariana y la posthuma; y para que gocen y disfruten los d'hos bienes por iguales partes sin mejorar a ninguna suponiendo que mi muger no pase a segundas nupcias; pues en este caso es mi voluntad q. deduciendo su dote ql. queda mencionado, y las respectivas gananciales, los demas bienes queden a disposicion de mi segundo albacea, para ql. me los entreque a mis d'hos, herederos en edad competente.

Declaro tambien por mis bienes, dos cientos y tantos pesos ql. me adenda Vicente Cané, cuatro cientos la mision de la soledad, y otras candidades de menor cuantia que constan en un apunte de dendas activas, que encontraran mis albaceas en la papelero de mi escretario, que si pudieren cobrar las albaceas lo agregaran al cuerpo de mis bienes; pero si negaren las dendas como lo specho que lo haran muchos, les perdono, y omitiran el paso de ponerlos ante justicia.

Item. Declaro por mis dendas pasivas la que acreditaren por libramientos mios los Ss. Don José Abrego, Don David Spence, Don Santiago Watson, Dn. Eulogio Celiz y á Don Santiago Maguinle, á quien no se mas ql. doscientos doce cueros aunqe. reclama quinientos y tantos pesos; pero que debe pasar por reclamos que le he hecho con anticipacion, y por eso segun mi cuenta de cargo y data ql. se le exigira se le hara el pago, y al padre ministro de lá mision del Carmelo la cantidad que a parezca por un documento mio deberle. Y para cumplir y pagar este mi testamento nombro por mis albaceas á mi citada mujer Da. Josefa Antonia Estrada y á Don David Spence, para que cada uno en particular é insolidum, verificado mi fallecimiento, entren y se apoderen de mis dhos. bienes para cumplir con lo que queda ordenado en él, sin que sirva de obstaculo la falta de alguna clausula prevenida para d'hos documentos; pues quiero que se tenga por tan firme y valedero como si estuviera otorgado en el papel sellado, q. no se en cuentra en todo este departmente, y anté notario publico que no lo hay tampoco, ni anté otra autoridad judicial, pues las leyes de España vigentes en la republica facultan á los testadores para obrar como les parezca.

A si lo otorque en el rancho citado de los Tularcitos á diez y ocho del mes de Setiembre, de mil ochocientos treinta y ocho, siendo testigos los señores Dn. Martin Sanchez Cabello, Don Julian Estrada, y los C. C. Martin Cordero, Tiburcio Soto, Joaquin Valenzuela, Carlos Lorenzana, José Antonio Urias y Bertoldo, neofito de la soledad, sin que a

parezca mi firma, por ser mi enformedad fracturacion de la mano derecha; pero autorizo para que lo haga á mi nombre al primer testigo nombrado.

(Firmado) MARTIN SANCHEZ CABELLO.

Firmo por mi y por los demas por no saber firmar.

(Firmado) JULIAN ESTRADA.
(Firmado) MARTIN SANCHEZ CABELLO.

*Original of Exhibit "C."*

En el nombre de Dios to. poderoso; y de la santisima Trinidad, Padre, Hijo y Espiritu Santo, tres personas distintas, y un solo Dios verdadero; estando en la camage avan'te enfermo, pero en mi entero juicio y temeroso de la muerte que á todos es natural, para descargar mi consciencia ordeno este testamento en apuntes por no estar en parage proporcionado para que lo fuera judicialmente, declarando en primer lugar haber sido vantizado en el seno de la Santa Iglesia Catolica, Apostolica Romana: creer como firmemente creo en el ministerio altisimo de la santisima Trinidad, en el ministerio de la encarnacion del Hijo de Dios, en las purisimas entrañas de la siempre Virgen Maria, y igualmente creo en los ministerios de la passion, y muerte, resurecion, y ascencion de N'tre Señor Jesu Cristo, quien ha de venir á jusgarnos aquel horrible dia de juicio, en que hemos de resucitar todos y que dara á los buenos su santisima gloria por que guardaron sus mandamientos y á las malos las penas del infierno por que no los guardaron. Creo en el santisimo y divinisimo sacramento del altar, y todos los demas misterios y sacramentos, q'l cree y confiesa n'tra madre la Iglesia Santa Catolica, Apostolica y Romana; bajo de cua fée y creencia protesto y es mi intencion morir, y asi mismo q'l por el sacramento de la penetencia se perdonan muestras culpas.

Mando mi alma á Dios, que la creó y formo de la nada, y mi cuerpo á la tierra de que fue formado, siendo mi voluntad que mis albaceas dispongan se le de sepultura ecc'a, en el cementerio de la mision del Carmelo, con misa de cuerpo presente si hubiere proporcion de q'l se diga, y sin ninguna otra pompa. Declaro haber sido casado y relado segun el orden de n'tra santa madre la Iglesia, con D'a Josefa Antonia Estrada; de quien hube cuatro hijos legitimamente; dos varones llamados, mayor Felipe y el 2o. Juan Evangelista; y las mujeres Isabel y la menor Mariana; advirtiendo que mi esposa embarazada, y tanto la prole que naciere como los cuatro citados deberan tenerse por mis herederos legitimos.

It'm. Declaro haber introducido mi muger al matrimonio doscientas resas, y yo por mi parte trescientos una, trescientos borregas, setenta y cinco y eguas aburradas con dos maestras de costo de dos cientos peros. Tambien el sueldo q'l disfrute des de el 7 de Marzo, de '831, en que me case á razon de tres mil pesos annales (como asesar del territorio) hasta el 22 de Mayo del año de '834, en que me fue admitida la renuncia que hire de dho. empleo, escetuando dos mil ps. qu. aun me debe

el gob'no; y cujos documentos justificatios de la denda que daran en poder de mis albaceas, como tambien la casa de mi abitacion en Monterey.

Ytm. Declaro reconocer por mis bienes la casa antes citada y el rancho de los Tularcitos, en que poco mas ó menos, se encontraran á la fecha mil y pico de reses; ciento y tantas lyeaguas; dos curros maestros, y dos garañones—cienta y una mules entre mansas y cerreras; treinta potrillos; y tres cientos cinco borregas de todas clases—treinta cabellos mansos—diez y untas de bueyes y cabrestos—y sesenta vacas chichigeras, cinco corrales de cajon, una casa techada con tule compuesta de dos piedas.

Ytem. Declaro no tener otros herederos legitimos, ni naturales que á los cuatro citados Felipe, Juan, Isabel Mariana y la postuma; y para que gocen y disfruten los d'hos Vienes por iguales partes sin mejorar a ninguna, suponiendo que mi muger no pase á segundas nupcias; puesen en este caso es mi voluntad q. deduciendo su dote q'l queda mencionado, y los respectivos garranciales, los demas bienes queden a disposicion de mi segunda albacea para q'l me los entreque a mis dhos. herederos en edad competente. Declaro tambien por mis bienes, dos cientos y tantos pesos q'l me adenda Vicente Cané. Cuatro cientos la mision de la soledad, y otras cantidades de menor cuantece, que constan en un aprunte de dendas activas que encontraran mis albaceas en la papelero de mi escritorio, que se pudieren cobrar los albaceas lo agregaran al cuerpo de mis bienes; pero si negaren las dendas como sospecho que lo haran muchos; les perdono y omitran el paso de poner ante justicia.

Item. Declaro por mis dendas pasivas la que acreditaren por libramientos mios; los S'r Don José Abrego, Don David Spencer, Don Santiago Watson, D'n Eulogio Celis, y á D'n Santiago Maguinle, a quien non se entregaran mas qe. dos cientos doce cueros auq'e reclama quinientos y tantos pesos; pro que debe pasa por reclamos que le he hecho con anticipacion y por eso segun mi cuenta de cargo y data ql. se le exigerá se le hara el pago. Y al padre ministro de la Mision del Carmelo, la cantidad que aparerca por un documento mio deberle. Y para cumplir y pajar este mi testamento nombro por mis albaceas á mi citada mujer D'a Josefa Antonia Estrada, y á Don David Spence, para que cada uno en particular é insolidum verificado mi fallecimiento, entren y se apoderen de mis d'hos bienes para cumplir con lo que queda ordonado en él, sin qué sirva de obstaculo la falta de alguna clausula prevenida para dhos. documentos; pues quiero que se tenga por tan firme y valedero q. no se encuentra en todo este departamento, y ante notario publico que no lo hay tampoco, ni ante otra autoridad judicial pues las leyes de Espana Vigentes en la Republica facultan á los testadores para obrar como les parerca.

Asi lo otorgue en el rancho citado de los Tularcitos, á diez y ocho del mes de Setiembre, de mil ochocientos treinta y ocho siendo testigos los Señores D'n Martin Sanchez Cabello, Don Julian Estrada, y los C. C. Martias Cordero, Tiburiro Soto, Joaquin Valenzuela, Carlos

Lorenzana, José Antonio Vrias y Bertoldo, neofito de la soledad, sin que aparezca mi firma por ser mi enfirmedad fracturacion de la mano derecha; pero autorizo para lo haga a mi nombre al primer testigo nombrado.

(Firmado) MARTIN SANCHEZ CABELLO.

Firmo por mi y por los demas por no saber firmar.

(Firmado) JULIAN ESTRADA.
(Firmado) MARTIN SANCHEZ CABELLO.

[*For map see original, page* 51.]

*Exhibit "A," annexed to 1st Deposition of D. Spence.*

Titulo de posecion dada al C. Lic. Rafael Gomez, del terreno nombrado Tularcitos, en cinco de Febrero, de mil ochocientos treinta y seis, por el Alcalde de segunda nominacion de Monterey, C. Marcelino Escobar.

Sello Primero, Seis Pesos.

Habilitado provisionalmente por la administracion de la Aduana Maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro y ochocientos treinta y cinco.

FIGUEROA. A. RAMIREZ.

José Figueroa, general de la brigada de la Republica Mejicana, comandante general, inspector, gefe superior politico del territorio de la Alta California.

[Engln.] Por cuanto el Ciudadano Licenciado Rafael Gomez, Mejicano por nacimiento, ha pretendido para su beneficio personal y el de su familia, el terreno conocido con el nombre de los Tularcitos, colindante con el Barranca Blanca, Laguna de los Conejos, Sierra del Tularcitos, Sierra de Tasshaguan; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos; usando de las faculades que me son conferidas á nombre de la nacion Mejicana, hé venido por decreto del dia primero del corriente mes en concederle al espresado Ciudadano Licenciado Rafael Gomez, el mencionado terreno de los Tularcitos, declarandole la propiedad de el por las presentes litras, entendiendose dicha concesion con entera conformidad a lo dispuesto por las leyes, a reserva de la aprobacion ó desa probacion de la Ex'ma Diputacion Territorial, y del supremo gobierno y bajo las condiciones siguientes:

1a. Que se sometera á las que estableciere el reglamento que se ha de forma para la distribucion, de terrenos Valdios, y que entre tanto ni el agraciado, ni sus herederos podran dividir, ni enagenar el que se le adjudica; imponer senso, vinculo, fianza, hipoteca ni otro gravamen aunque sea por causa piadosa, ni pasarlo á manos muertas.

2a. Podra cercarlo sin perjudicar los travesias caminos y servidumbres, lo disfrutara libre y esclusivamente, destinandolo al uso ó cultivo que mas le acomode pero dentro un año á lomas fabricara casa y estara habitada.

3a. Cuando se le confirmé la propriedad solicitara del juez respectivo le de posecion juridica, en virtud de este despacho por el cual, se demarcaran los linderos eu cuyos limites pondra á mas de las mahoneras algunos. arboles, frutales, ó silvestres de alguna utilidad.

4a. El terreno de que se hace donacion es de dos sitios des ganado mayor, poco mas ó menos segun esplica el diseño. El juez que diere la posecion lo hará medir conforme á ordenanza para señalar los linderos quedando el sobrante que resulte á la nacion para los usos convenientes.

5a. Si contraviniere á estas condiciones perdera su derecho al terreno y sera denunciable a otro.

En consecuencia mando que sirviendole de titulo el presente, y teniendose por firmé y valedero se tome razon en el libro que corresponde y se entreque al interesado, para su resguardo y demas fines. Dado en Monterey, á diez y ocho de Diciembre, de mil ochocientos treinta y cuatro.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO,
*Secretario.*

Queda tomada razon de este despacho en el libro de asientos de titulos sobre adjudicacion de terrenos á fojas cincuenta y nueve, numero cincuenta y siete que otra en la scretaria de mi cargo. Monterey, diez y ocho de Diciembre, de mil ochocientos treinta y cuatro.

ZAMORANO.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterey, de la Alta California, pára los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

CASTRO.

*Testimonio.—Proposicion de la Comision.*

[Place of the Eagle.] Se aprueba la concesion echa al C'no Rafael Gomez, del paraje nombrado los Tularcitos concedido en diez y ocho de D'bre, de mil ochocientos treinta y cuatro.

JOSE CASTRO.

Monterey, Agosto veinte y nueve, de mil ochocientos treinta y cinco.

*Aprovacion de la C. Diputacion.*

En sesion de hoy aprovo la ex'ma deputacion, el dictamen que antecede i pasa el espediente al S. gefé politico p'a su conclusion.

JOSE CASTRO.
JOSE MARIA MALDONADO,
*Secretario.*

Monterey, Octubre dies y nueve, de mil ochocientos treinta y cinco.

*Decreto de Confirmacion de S. S. Politico.*—[Dros. 8 p's.]

En vista de la aprovacion otorgada el dia veinte y nueve de Agosto, p'r la ex'ma diputacion territorial, librese testimonio de ella y de este decreto á la partede Don Rafael Gomez, en confirmacion a la concesion del terreno conocido con el nombre de Tularcitos, q. obturo en dies y ocho D'bre, de mil ochocientos treinta y cinco. El S'or Don José Castro, primer vocal de la ex'ma deputacion territorial y gefé politico interino del territorio de la Alta California, asi lo mandó, decretó y firmo, de ql. doy fé.

JOSE CASTRO.
F'CO DEL CASTILLO NEGRETE,
*Secretario.*

Concuerda á la letra con su original que queda archivado en esta secretaria del gobierno politico de mi cargo en al legajo de espedientes sobre terrenos aprovados, p'r la ex'ma diputacion señaldo con el numero primero al ql. me remito.

Monterey, Octubre dies y nueve, de mil ochocientos treinte y cinco.

F'CO DEL CASTILLO NEGRETE.

Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO. ANGEL RAMIREZ.

Ciud'no Alcalde de 2a nominacion:

El Ciud'no Rafael Gomez, ante V. por el ocurso mas oportuno dice; que haviendosele concedido por la gefatura politica del territorio, para su beneficio personal y de su familia, el terreno conocido con el nombre de los Tularcitos, y obtenido igualmente la confirmacion de la ex'ma diputacion como la acreditan el titulo y testimonio que dividumente acompaña; solo le falta la posecion juridica, a cuyo efecto ocurre á V. para que le sirva previa la citacion de los colindantes que de muestra el diseño que tambien acompaña señalar dia para otro otorgarsela. Por tanto.

A. V. suplica difiera á su solicitud devolviendole el espediente original, p'a su resguardo concluidas ql. sean las diligencias; por ser todo de justicia; juro lo necesario.

Monterey, D'bre 29, de 1835. RAFAEL GOMEZ.

MONTEREY, *Enero* 30, de 1836.

Por presentado y admitido en cuanto há lugar por derecho; procedase por el presente alcalde á dar la posecion que se solicita, señalandose para verificar lo el 3 del prosimo Febrero, previa citacion de los colindantes cuid'no Francisco Mesa y Teodoro Gonzales. Mi, el alcalde de segunda nominacion, lo decrete, mandé, y firmé, actuando con los testigos de asistencia, en la forma establecida.

MARCELINO ESCOBAR.

De ass'a: JOSE MARIA MALDONADO.
De ass'a: JOSE AQUILA.

Derecho sin el papel veinta y cuatro pesos, tres re'ls, 24 p's, 3 r's.

J.

En la fecha presentes los ciudadanos Francisco Mesa y Teodoro Gonzales, les hice veer el decreto que antecede, y de el entendido dijeron; que lo oyen y se dan por citados firmando el segundo y por no saber lo hacer el primero, lo hice y con los—

[Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterrey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO. ANGEL RAMIREZ.]

—de ass'a.

M. ESCOBAR,
TEODORO GONZALES.

De ass'a: JOSÉ MARIA MALDONADO,
De ass'a: JOSÉ AGUILAR.

En el rancho de los Tularcitos à los cuatro dias del mes de Febrero, de mil ochocientos treinta y seis, estando en la posa que se halla en la Barranca Blanca lindero del C. Teodoro Gonzales, con el objeto de dar principio à las medidas del terreno concedido al C. Rafael Gomez, en los terminos que consta én el diseño, mande leer el titulo de concession y de respectiva aprovacion de la E. diputacion siendo presentes el interesado y como colindantes los C. C. Teodoro Gonzales y Francisco Mesa, nombré para peritos medidoras à los C. C. Francisco Mesa y Juan Arroyo, quienes intelligenciados de su nombramiente aceptaron y furaron por Dios nuestro señor y la señal de la cruz, desempenarlo fiel y legalmente à todo su leal saver y entender sin orlo, fraude o encuvierta alguna, y lo firmaron con migo losque supieron hacerlo. Doy fe. Lo entre renglones vs.

JUAN ARROYO,
MARCELINO ESCOBAR.

De ass'a: JOSÉ MARIA MALDONADO,
De ass'a: JOSÉ AGUILAR.

En seguida siendo presentes todos los interesados mande reconocer un cordel q. tuvo cincuenta varas usuales, y lo firmaron los q. supieron con migo y los testigos de as'a.

MARCELINO ESCOBAR,
RAFAEL GOMEZ,
JUAN ARROYO.

De ass'a: JOSÉ MARIA MALDONADO,
De ass'a: JOSÉ AGUILAR.

En la f'ha, citada dando principio à la medida.—

[Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO. ANGEL RAMIREZ.

Revalidado para el bienio de 1836 y 1837.

GUTIERRES. A. RAMIRES.]

—Tomaran el cordel los medidores y se medieron desde el punto de la Baranca citada con direccion al S. treinta cordeles dandose por medidas desde el punto referido pa. el N. hasta la mesa del mirador del corral de tierra setenta cordeles, por haverse hecho hace pocos dias igual medida por el C. alcalde 1o de este municipalidad; en lo que como en lo demas quedaron conformes todos los interesados, y firmaron con migo y los de asistencia los que lo supieron hacer. Doy fé.

MARCELINO ESCOBAR,
JUAN ARROYO,
RAFAEL GOMEZ,
TEODORO GONZALES.

De ass'a: JOSÉ MARIA MALDONADO,
De ass'a: JOSÉ AGUILAR.

En el mismo dia, en prosecucion de estas diligencias se medieron desde dicha cabesa del O. al E. doscientos cordeles que llegaron hasta el frente de la casa del rancho, y lagunita que esta adelante á los conejos en cuyo lindero como en el anterior, impuse al interesado fijase las mojoneras, y con el cual quedó conforme el interesado, y firmo con migo y los asistencia.

MARCELINO ESCOBAR,
JUAN ARROYO,
RAFAEL GOMEZ.

De ass'a: JOSÉ MARIA MALDONADO,
De ass'a: JOSÉ AGUILAR.

En el rancho citado á los cinco dias, del mes y año referido, yo el presente juez acompanado de los medidores interesados y testigos de asistencia, para concluir la medida del terreno mande medir, desde la caso mencionada ciento cincuenta cordeles con direccion al N. y remataron en lafalda de la sierra donde acaba la cañada de los chupines, de las cuales las cincuenta pertenecen á los cuatro sitios, que quedan ya demarcados y las cien forman la cabesda de los dos sitios que deren darse para el entero de la posecion. Por ultimo se medieron doscientos cordeles del E. al O. que forman el largo de los dos sitios que faltaban para el completo: con cuya operacion que do recivido y enterado el C. Rafael—

[Sello Tercero, Dos Reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterrey de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO. ANGEL RAMIREZ.

Revalidado para el bienio de 1836 y 1837.

GUTIERREZ. A. RAMIREZ.]

—Gomez de los seis sitios de ganado mayor, que contiene el diceño que corre agregado en este espediente y lo firmó con migo, el interesado, y uno de los colindantes por no saver el otro, y los testigos de ass'a.

MARCELINO ESCOBAR,
JUAN ARROYO,
RAFAEL GOMEZ,
TEODORO GONZALES.

De ass'a: JOSE MARIA MALDONADO,
De ass'a: JOSE AGUILAR.

En el mencionado rancho á los cinco dias, del mes y año ya citado, yo el juez referido, hallandose presentes el C. Rafael Gomez, los colindantes y testigos de ass'a en vista de estar concluidas, las medidas de los seis sitios de que se ha hecho merito, no haciendo resultado contradicion: alguna tomé de la mano al citado Licenciado Gomez, y lo meti en posecion del terreno que aquellos comprehenden, mandandose á la vez: "Como lo verifico" que hiciese algunas demostraciones de señorio y propriedad, en cuya virtud movio piedras de una parte ó otra y arrancó algunas yervas, y para la divida constancia siento esta diligencia q. firme con el interesado, colindante q. lo supo hacer y testigos de ass'a.

MARCELINO ESCOBAR,
TEODORO GONZALES,
RAFAEL GOMEZ.

De ass'a: JOSE MARIA MALDONADO,
De ass'a: JOSE AGUILAR.

MONTEREY, *Febrero* 6, 1836.

Tomese razon en el libro de poseciones de este espediente y devuelvase al interesado el original, para los usos q. le correspondan. Asi yo el alcalde de 2 nominacion lo mandé y firme, con los de as'a.

MARCELINO ESCOBAR.

De ass'a: JOSE MARIA MALDONADO,
De ass'a: JOSE AGUILAR.

En la f'ha se tomé razon de este titulo en la foja 4o del libro respectivo, y pa. constancia lo anoto y rubricó.

[*For map see original, page* 61.]

Seal of the first class—Six dollars.

Authorized provisionally by the collector of maritime custom-house of Monterey, Upper California, for the years one thousand eight hundred and thirty-four and eighteen hundred and thirty-five.

(Signed) FIGUEROA,
(Signed) A. RAMIREZ.

*Translation of grant, approval and juridical possession.—Exhibit B.*

José Figueroa, brigadier general of the Mexican republic, commandant general, inspector, and superior political chief of the Territory of Upper California:

Whereas, the licentiate, citizen Rafael Gomez, a Mexican by birth, has solicited, for his personal benefit and that of his family, the land known by the name of Los Tularcitos, bounded by the Barranca Blanca, the Laguna de los Conejos, the mountains of the Tularcito, and the mountains of Tasshaguan, the necessary proceedings and investigations having been previously taken and made, in conformity with the requisitions of laws and regulations:

I have, by decree of the first of this month, in virtue of the powers conferred upon me, granted to the said licentiate, citizen Rafael Gomez, in the name of the Mexican nation, said land of Los Tularcitos, declaring unto him the ownership thereof by these present letters, it being understood that said grant is made in entire conformity with the requisition of the laws, and subject to the approval or disapproval of the most excellent territorial deputation and the supreme government, and under the following conditions:

1st. He shall be subject to those which may be established by the regulations to be made for the distribution of vacant lands, and, in the mean time, neither the grantee nor his heirs shall divide or alienate

the land granted to him, impose ground-rent, entail, reversion, mortgage, or any other burthen, although it may be for pious purposes.

2d. He may enclose it without prejudice to the crossings, roads, and privileges; he shall enjoy it freely and exclusively, destining it to the use and cultivation which may best suit him; but, within one year, at furthest, he shall build a house and it must be inhabited.

3d. When the ownership is confirmed to him, he will solicit the respective magistrate to give him juridical possession thereof, in virtue of this title, and said magistrate shall designate the boundaries, in the limits whereof he shall, beside placing the landmarks, plant some fruit trees, or wild ones of some utility.

4th. The land whereof donation is made consists of six square leagues, (sitios de ganado mayor,) a little more or less, as appears by the plot. The magistrate who gives possession will cause it to be measured according to law, in order to designate the boundaries, the surplus which may result being left to the nation for the neeessary uses.

5th. If he transgress these conditions, he shall lose his right to the land, and it may be denounced by another.

I consequently command, that these presents serve him as a title, and being held as firm and valid, a record thereof be made in the corresponding book, and the original be delivered to the party interested, for his security and further ends.

Given in Monterey, this eighteenth day of December, one thousand eight hundred and thirty-four.

(Signed) JOSE FIGUEROA.
(Signed) AGUSTIN V. ZAMORANO,
*Secretary.*

A record of this title has been made in the book of entries respecting the adjudication of lands at folio fifty-nine, number fifty-seven, kept in the secretary's office, under my charge.

Monterey, (diez y ocho,) eighteenth of December, one thousand eight hundred and thirty-four.

(Signed) ZAMORANO.

Seal of the third class—Two Reals.

Authorized provisionally by the collector of the maritime custom-house of Monterey, Upper California, for the years one thousand eight hundred and thirty-four, and eighteen hundred and thirty-five.

[Gov't Seal] (Signed) CASTRO.
(Signed) ANGEL RAMIREZ.

*Testimony.—Proposal of the committee.*

The grant made to citizen Rafael Gomez, of the land called Tularcitos, on the eighteenth of December, eighteen hundred and thirty-four, is approved.

JOSE CASTRO.

Monterey, August 29th, eighteen hundred and thirty-five.

*Approval of the M. E. deputation.*

In the session of to-day, the most excellent deputation approved the foregoing proposal, and transfers the expediente to the political chief for its conclusion.

JOSE CASTRO.
JOSE MARIA MALDONADO,
*Secretary.*

Monterey, October nineteenth, eighteen hundred and thirty-five.

*Decree of Confirmation by the Political Chief.*—[Fees $8.]

In view of the approval granted by the most excellent territorial deputation on the twenty-ninth of August, let a testimony thereof, and of this decree, be delivered to Don Rafael Gomez in confirmation of the grant to the land known by the name of Tularcitos, which he obtained on the eighteenth of December, eighteen hundred and thirty-five. Señor Don José Castro, first member of the most excellent territorial deputation, and political chief ad interim of the territory of Upper California, did thus command, decree, and sign, whereof I give testimony.

JOSE CASTRO.
FRANCISCO DEL CASTILLO NEGRETE,
*Secretary.*

The foregoing literally agrees with its original on file in the office of the secretary to the political government under my charge, in the bundle of expedientes, respecting lands approved by the most excellent deputation, marked with number one, to which I remit.

Monterey, October nineteenth, eighteen hundred and thirty-five.

(Signed) FRANCISCO DEL CASTILLO NEGRETE.

Fees $4 25.

Seal of the third class—Two Reals.

Authorized provisionally by the collector of the maritime custom-house of Monterey, Upper California, for the years one thousand eight hundred and thirty-four, and eighteen hundred and thirty-five.

(Signed) CASTRO,
(Signed) ANGEL RAMIREZ.

Citizen Alcalde of 2d nomination:

Citizen Rafael Gomez, before your honor, in the most proper manner says: That the political government of the territory having granted to him for his personal benefit, and that of his family, the land known by the name of the Tularcitos, the confirmation whereof he likewise obtained from the most excellent deputation, as appears by the title and testimony which duly accompany, he merely stands in need of the juridical possession, for which purpose he applies to your honor, in order that you may be pleased after summoning the owners of the adjoining farms, designated in the plat which also accompanies, to appoint a day for carrying it into effect. He therefore requests that your honor will

accede to his petition, and return him the original expediente for his security, when the proceedings are concluded, the whole being a matter of justice. He swears that which is necessary.

Monterey, December 29th, 1835.

(Signed) RAFAEL GOMEZ.

MONTEREY, *January* 30*th*, 1836.

Considered as presented, and admitted as far as the law will allow, I, the present alcalde, will proceed to give the possession asked for, appointing for the execution thereof the 3d of next February, after summoning the adjoining land-holders, citizens Francisco Mesa and Teodoro Gonzales. That I, the alcalde of second nomination, did decree, command, and sign, actuating with assisting witnesses in the established form.

(Signed) MARCELINO ESCOBAR.

(Signed) JOSE MARIA MALDONADO, } *Assisting witnesses.*
(Signed) JOSE AGUILA, }

On the same date, citizens Francisco Mesa and Teodoro Gonzales being present, I manifested to them the foregoing decree, which, having understood, they said that they heard it, and considered themselves summoned; and as the former cannot write, the second signed with me and the assisting witnesses.

(Signed) ESCOBAR,
(Signed) TEODORO GONZALES.

(Signed) JOSE MARIA MALDONADO, } *Assisting witnesses.*
(Signed) JOSE AGUILA, }

In the rancho of the Tularcitos, on the fourth day of the month of February, eighteen hundred and thirty-six, being at the pond or puddle (posa) inside of the Baranca Blanca, the boundary line of citizen Teodoro Gonzales, for the purpose of commencing the measurement of the land granted to citizen Rafael Gomez, according to the terms mentioned in the plot, I ordered the title and the respective approval of the most excellent deputation to be read in presence of the party interested and of the adjoining land-holders, citizens Teodoro Gonzales and Francisco Mesa, and appointed as measurers citizens Francisco Mesa and Juan Arroyo, who, being informed of their appointment, accepted it, and swore by the Lord our God and the sign of the cross to execute it faithfully and legally, to the best of their knowledge and understanding, without deceit, fraud, or connivance; and those who knew how signed with me, whereof I give testimony.

(Signed) MARCELINO ESCOBAR,
(Signed) JUAN ARROYO,
(Signed) TEODORO GONZALEZ.

(Signed) JOSE MARIA MALDONADO, } *Assisting witnesses.*
(Signed) JOSE AGUILA, }

At the same time all the parties interested being present, I ordered a cord of fifty common varas to be examined, and those who knew how signed with me and the assisting witnesses.

(Signed) MARCELINO ESCOBAR,
(Signed) JUAN ARROYO,
(Signed) RAFAEL GOMEZ.
(Signed) JOSE MARIA MALDONADO, } *Assisting witnesses.*
(Signed) JOSE AGUILA, }

On the same date the measurers, on commencing the measurement, took the cord and measured from the point of said Barranca in a southerly direction thirty cords, supposing to have measured from said point towards the north, to the table land of the Mirador del Corral de Tierra, seventy (70) cords, the first alcalde of this municipality having a few days ago made said measurement; with respect to which, and to all the rest, all the parties interested agreed and signed with me, and the assisting witnesses, those who knew how, whereof I give testimony.

(Signed) MARCELINO ESCOBAR,
(Signed) JUAN ARROYO,
(Signed) RAFAEL GOMEZ,
(Signed) TEODORO GONZALEZ.
(Signed) JOSE MARIA MALDONADO, } *Assisting witnesses.*
(Signed) JOSE AGUILA, }

On the same day, in prosecution of these proceedings, two hundred cords were measured from said head-line (cabecera) in the direction of west to east, which distance came to opposite the house of the rancho, and from this point other two hundred cords to the second small lagoon, which is situated before the Conejos; at which boundary, as likewise at the former one, I ordered the party interested to fix landmarks, to which he agreed, and signed with me and the assisting witnesses.

(Signed) MARCELINO ESCOBAR,
(Signed) JUAN ARROYO,
(Signed) RAFAEL GOMEZ.
(Signed) JOSE MARIA MALDONADO, } *Assisting witnesses.*
(Signed) JOSE AGUILA, }

In the said rancho, on the fifth day of the said month and year, I, the present magistrate, accompanied by the measurers, party interested and assisting witnesses, in order to conclude the measurement of the land, ordered to be measured from said house one hundred and fifty cords in the direction of north, which reached to the brow of the mountains, where the Cañada de los Chupines ends; of which fifty cords belong to the four square leagues (sitios) already designated, and the other hundred from the head-line of the two sitios, which must be given to complete the entire possession. Lastly, two hundred cords were measured from east to west, which form the length of the two sitios wanted for the complement; with which operation citizen Rafael Gomez was put in possession of the six square leagues (sitios de ganado

mayor) contained in the plot annexed to this expediente, and the party interested signed with me and one of the neighboring land-holders (the other not knowing how) and the assisting witnesses.

(Signed) MARCELINO ESCOBAR,
(Signed) JUAN ARROYO,
(Signed) RAFAEL GOMEZ,
(Signed) TEODORO GONZALEZ.
(Signed) JOSE MARIA MALDONADO,
(Signed) JOSE AGUILA, } *Assisting witnesses.*

In the same rancho, on the fifth day of the month and year already mentioned, I, the said magistrate, being present, citizen Rafael Gomez, the owners of the neighboring farms, and the assisting witnesses, seeing that the measurement of the before mentioned six sitios was concluded, without any contradiction having arisen, took the said Licenciate Gomez by the hand, and put him in possession of the land comprehended therein, commanding him at the same time (which he did) to make some demonstrations of lordship and ownership, in virtue whereof he moved stones from one part to another, and pulled up some grass. And in due testimony whereof, I note this proceeding, which I signed with the party interested, the neighboring land-owner, who could write, and the assisting witnesses.

(Signed) MARCELINO ESCOBAR,
(Signed) RAFAEL GOMEZ,
(Signed) TEODORO GONZALES.
(Signed) JOSE MARIA MALDONADO,
(Signed) JOSE AGUILA, } *Assisting witnesses.*

MONTEREY, *February 6th*, 1836.

Let this expediente be recorded in the book of possessions, and the original be returned to the party interested, for the uses which may best suit him. Thus I, the alcalde of 2d nomination, did command and sign with the assisting witnesses.

(Signed) MARCELINO ESCOBAR.
(Signed) JOSE MARIA MALDONADO,
(Signed) JOSE AGUILA, } *Assisting witnesses.*

On the same date this title was recorded at folio 4 of the respective book. In testimony whereof, I note this, and sign with my scroll.

(Signed) (With the alcalde's scroll.)

I, the undersigned, do hereby certify the foregoing to be a true and faithful translation of the original documents in possession of Mr. Charles Walter.

W. E. P. HARTWELL,
*State Translator.*

STATE TRANSLATOR'S OFFICE,
*Monterey, 28th November*, 1851.

Filed in office, April 20th, 1852.
(Sgd.) GEO. FISHER, *Sec'y.*

*Opinion delivered by Com'r Thornton—Confirmation.*

JOSEFA ANTONIA GOMEZ et al., Heirs of Rafael Gomez, claimants, vs. THE UNITED STATES. } No. 195.—Tularcitos, Monterey Co.

Opinion by Comm'r Thornton.

The claim in this case presented is founded on a grant made on the 18th of December, 1834, under and by virtue of the decree of the Mexican Congress of the 18th of August, 1824, and of the executive ordinance of the 21st of November, 1828, by José Figueroa, governor of California, to Rafael Gomez, the ancestor of the claimants, for six square leagues of land, a little more or less. On the 29th of August, 1835, the grant was approved by the Territorial Deputation of California; and on the 5th of February, 1836, a measurement, according to the custom of the country, was made of the premises, and possession thereof delivered to the grantee. Continuous and undisturbed possession and occupation of and residence on the same has been had and enjoyed, for upwards of nineteen years, by the grantee and his heirs, the present claimants. The genuineness of the grant, and the authority of the grantor, and all the other facts above stated, are fully established by regularly authenticated documentary evidence from the public archives of the former governments of the country, and by the other testimony on file in the case. The evidence is not by any means conclusive, as it relates to the locality of the land with regard to the seacoast. There is in this grant a reservation or condition of the approval of the federal executive; which, not being specially obtained in this case, is insisted upon as destructive of all right or title in the claimants. The grant declares, that it is made in conformity with the laws and regulations; and we have already decided, that in grants like this the special approval of the federal executive is not necessary, according to the said laws and regulations. The effect of this reservation or condition can be nothing more than that the approval of the federal executive must be had only if or in the contingency that the other alternative provided by the ordinance, viz., the approval of the territorial deputation, should be refused to the governor's grant.

All the grounds of objection urged against the validity of this claim have been fully considered and overruled in the case of Cruz Cervantes, the opinion in which is now on file in the office of the secretary of this board.

The effect of the terms, "a little more or less," which occur in this grant, we have already decided not to be destructive of it for uncertainty, nor to increase or diminish the specified quantity. This was so held by us in the opinion delivered and on file in the case of John Keyes, assignee, &c., No. 222.

In view of all which, we decide the claim in this case to be valid, and that it be confirmed. In the result above announced, Commissioner Hall concurs.

(Signed) HARRY J. THORNTON.

*Decree of Final Confirmation.*

Decree of Final Confirmation.

This board, upon full consideration of the various grounds affecting the validity of the said claim, having come to the conclusion that the same is valid, therefore now proceeds to make, and does hereby make, the following decree or report of final confirmation, viz:

It is decreed that the said claim be confirmed to the said claimants, to the extent and quantity of six square leagues, and for no more, being the same land described in the grant and expediente referred to therein, and of which possession has been had and enjoyed under the said grant by the grantee and the claimants as his heirs: provided, that the said quantity of land granted and now here confirmed be contained within the boundaries called for in the said grant and map to which the grants refer; and if there be less than the said above-named quantity within the said bounds, then we confirm to the claimants that less quantity, it being apparent that said quantity exceeds the minimum of two hundred varas, as prescribed in the ordinance of the 21st of November, 1828.

(Signed) HILAND HALL,
(Signed) HARRY J. THORNTON,
*Commissioners.*

OFFICE OF THE BOARD OF COMMISSIONERS
*To ascertain and settle the private land claims in the State of Cal'a.*

I, George Fisher, secretary to the Board of Commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing seventy-four pages, numbered from 1 to 74, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence and of the testimony of the witnesses, upon which the same is founded, on file in this office in case No. 195, on the docket of the said board, wherein heirs of Rafael are claimants against the United States for the place known by the name of Los Tularcitos.

In testimony whereof I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this fifteenth day of February, A. D. 185 , and of the independence of the United States of America the seventy-eighth.

[Priv. seal.]

GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
*Southern district of California.*

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing 74 pages, numbered from 1 to 74, both inclusive, contain a full, true, and correct copy of transcript No. 195, filed in this office, wherein

heirs of Rafael Gomez are appellees, and the United States appellant, for Los Tularcitos.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Los Angeles, California, this 20th day of December, A. D. 1855, and of the independence of the United States the eightieth.

[L. S.]

C. E. CARR, *Cl'k.*

UNITED STATES DISTRICT COURT,
*Southern district of California.*

CLERK'S OFFICE, LOS ANGELES.

HEIRS OF RAFAEL GOMEZ, appellee, ads. THE UNITED STATES, appellant. } Docket No. 3.—Transcript No. 195.

Be it remembered, that on the 18th day of February, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit:

A duly certified transcript of the proceedings and decision, and the papers and evidence upon which the said decision was founded, of the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, was received and filed and docketed with No. 3, wherein heirs of Rafael Gomez is the claimant against the United States, for the place named Los Tularcitos, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *Sept. 2d*, 1854.

In case No. 3, heirs of Rafael Gomez for Los Tularcitos, the notice of appeal from the U. S. Attorney General was filed.

(Vide page 3.)

LOS ANGELES, *Dec. 4th*, 1854.

In the same case, the petition of the United States for review was filed.

(Vide page 3.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *March 20th*, 1855.

In same case, the answer of appellees was filed.

(Vide page 7.)

LOS ANGELES, *24th of Sept.*, 1855.

In the same case, the opinion of the court was delivered and the decree entered: (Vide page 9.)

Los Angeles, *Oct.* 18*th*, 1855.

In same case, the order of appeal on motion of P. Ord, U. S. attorney, was filed.

(Vide page 10.)

Attorney General's Office,
15 *July*, 1854.

Heirs of Rafael Gomez, claimants,
vs.
The United States. } 193.

*Appeal Notice.*

You will take notice, that an appeal in the above case (a transcript of the proceedings in which were received at this office on the 15th of March, 1854) from the decision of the commissioners to ascertain and settle the private land claims in the State of California, to the district court of the U. States for the southern district of California, will be prosecuted by the U. States.

(Sig'd) C. CUSHING,
*Attorney General U. S.*

Filed Sept. 2, 1854.
(Sig'd) A. S. TAYLOR, *Dep. Cl'k.*

In the District Court of the United States for the southern district of California.

Los Angeles County.

Heirs of Rafael Gomez
ads.
The United States. } No. 195.

*Petition for Review.*

To the hon'rble Isaac S. K. Ogier, district judge of the U. States for the southern district of California.

The petition of Pacificus Ord, of Monterey county, attorney of the United States for the southern district of California, who petitions in this behalf for the U. States; and being present here in court in his proper person, and in the name and behalf of the U. States, represents as follows:

That heretofore, to wit, on the 20th of April, 1852, the heirs of Rafael Gomez—to wit: Josepa Antonia Gomez de Walter, widow; Felipe Gomez, Isabel Gomez, and Rafael Gomez, Juan Gomez and Mariana Gomez, children of Rafael Gomez, dec'd—filed their petition in the office of the commissioners to ascertain and settle the private land claims in the State of California, claiming a tract of land called "Los Tularcitos," of about six square leagues of land, a little more or less, in Monterey county, California, in virtue of an alleged grant to Rafael Gomez by Governor José Figueroa, of the date of about the

18th December, 1834, and the approbation of the deputation, of the date of 29 August, A. D. 1835, and the judicial possession of the land on the 5th of Feb'y, 1836, and map of the same; that said Rafael Gomez died on the 18th Sept., , leaving the petitioners his widow and heirs.

That on or about the 22d of December, A. D. 1852, the said commissioners, after due proceedings had, made a decree of final confirmation of said claim in favor of said petitioners.

That on or about the 18th of Feb'y, A. D. 1854, a duly certified transcript of the decree and proceedings of said commissioners in said cause, and the documentary evidence and testimony of witnesses, in which said decree was founded, was filed in the office of the clerk of the district court of the U. States, in and for the southern district of California, and numbered 195, reference to which may be had as part of this petition.

That on or about the 15th of March, A. D. 1854, the hon'ble Caleb Cushing, Attorney General of the U. S., received a duly certified duplicate of said transcript of the said proceedings of said com'rs in said cause.

That on or about the 2d day of Sept., 1854, the said Caleb Cushing, Att'y General of the U. States, filed, or caused to be filed, in the said office of the clerk of the district court of the U. States, in and for the southern district of Cal'fa, a notice that an appeal would be prosecuted by the U. States in said cause from the decision of the said commissioners to ascertain and settle the private land claims in the State of California, to the district court of the U. States for the southern district of Calif'a. Your petitioners further represent, that the said decree of confirmation of said claim by said commissioners is erroneous, and that claim of said petitioners is invalid, on the following grounds:

I. That the land is within the ten (litteral) leagues of the sea-coast, and was not, therefore, subject to grant or colonization at the said date of the said alleged grant, without the previous approbation of the supreme executive power, which said previous approbation is not shown by said claimant, and was not given.

II. That at the date of the said alleged grant of Governor Figueroa, the said land claimed belonged to or was occupied by the Mission of San Carlos, which then existed in the Territory of Upper California, and was not, therefore, subject to grant.

III. That by the terms of the said alleged grant, it is made subject to the approbation of the supreme government, which petitioners do not show, and which was never shown.

IV. That the boundaries are vague and indefinite, and insufficient to identify the land claimed.

V. That the claimants show that they did not take or received judicial possession of the land claimed until the 5th of Feb'ry, A. D. 1836, which was more than one year after the date of the alleged grant, to wit, the 18th of December, 1834; which was a violation of the second condition of the said alleged grant.

VI. That the said alleged juridical possession was not given by the judge according to law; nor did he make the measurements of the land according to law.

VII. That the petitioners have not shown that they are the heirs at law of the said Rafael Gomez. And the said petitioner alleges and shows, that the said tract of land, of about six square leagues, called "Los Tularcitos," and claimed as aforesaid by said heirs of Rafael Gomez, lies in the southern district of California, and within the jurisdiction of this honorable court.

Wherefore, the said attorney of the United States, for and in behalf of the United States, by reason of the premises and the laws and statutes in such case made and provided, prays this honorable court to review the said decision of the said commissioners to ascertain and settle the private land claims in the State of California, and to decide on the validity of said claim of said heirs of said Rafael Gomez, and that the same may be decreed invalid; and for such other orf urther orders, decrees, or decision as this honorable court may seem meet. And he further prays, that the heirs of the said Rafael Gomez may be served with a copy of this petition; and further, that the said claimant may be condemned to pay the costs in the premises, and general relief.

(Signed) P. ORD,
*Att'y of U. S. for Southern Dist. of Cal'a.*

Filed Dec. 4th, 1854.
(Signed) C. E. CARR, *Cl'k.*

In the District Court of the United States for the southern district of California.

COUNTY OF LOS ANGELES.

WIDOW AND HEIRS OF RAFAEL GOMEZ, appellees, ads. THE UNITED STATES, appellant. } No. 195.—Tularcitos.

*Answer.*

The answer of Josepa Antonio Gomez de Walters, the widow of the late Rafael Gomez, and of Felipe Gomez, Isabel Gomez, Juan Gomez, Mariano Gomez, and Rafael Gomez, children of the said deceased Rafael Gomez, to the petition filed by the United States district attorney, in behalf of the United States, respectfully shows to this honorable court—

That on or about the 18th day of December, 1834, José Figueroa, governor of California, by virtue of authority in him vested, granted to the said Rafael Gomez the tract of land called "Los Tularcitos," situate in the present county of Monterey, containing six square leagues of land, a little more or less, as shown by the map accompanying the concession and made part thereof.

That the said concession was approved by the Territorial Deputation of California, on or about the 29th day of August, A. D. 1835; and that on or about the last-named day, and after said approval, the governor or political chief of California made, signed, and delivered to the said Rafael Gomez, a document of title, whereof his title to the said land became definitively valid.

That on or about the fifth day of February, A. D. 1835, the said tract of land was duly surveyed by the Mexican government, and the juridical possession thereof given to the said Gomez by proper authority, and in due form of law.

That the said Rafael Gomez died on the 18th September, A. D. , leaving his said widow, and the aforenamed children, and no other child or descendant of such his heirs.

That the said Rafael Gomez, his said widow and children, have been in the quiet and undisputed possession of said tract of land for more than twenty years, and that the appellees now are in such possession.

That the said Rafael Gomez fulfilled and duly performed all the conditions annexed to this said grant.

Wherefore the appellees pray this honorable court to affirm the decree of this said commissioners confirming their claim.

(Signed) HALLECK, PEACHY & BILLINGS,
*Att'ys for Appellees.*

I served this answer on P. Ord, attorney for the United States, by delivering to him, personally, a certified copy of the same at his office in the southern district of California, this March 23d, 1855.

(Signed) EDWARD HUNTER,
*U. S. Marshal.*

Sworn to and subscribed before me this 23d day of March, 1855.

(Signed) C. E. CARR, *Cl'k.*

Filed March 20th, 1855.

(Sig'd) C. E. CARR, *Clk.*

HEIRS OF RAFAEL GOMEZ, appellee, ads. THE UNITED STATES, appellant. } No. 3.—For Los Tularcitos.

District Court of the U. States for the southern district of Calif'a.

*No. 6.—Decree by Ogier, judge.*

This case comes up to be heard, on appeal from the final decision of the commissioners to ascertain and settle private land claims in the State of California, under an act of Congress passed 3d of March, 1851, on a transcript of the proceedings and decisions, and the papers and evidence on which said decision was founded; and it appearing to the court that the said transcript was filed according to law, and counsel

for the parties having been heard: It is ordered, adjudged, and decreed, that the same be, and is hereby, affirmed; and, it is further ordered, adjudged, and decreed, that the claim of the appellees to the land described in the copy of the grant on file in this case is a good and valid claim, and the same is hereby confirmed, to the extent of six square leagues, provided said quantity hereby confirmed be contained within the limits called for in said grant, and in case there be a less quantity, the claim of the appellees to such less quantity is hereby confirmed.

(Sig'd) ISAAC S. K. OGIER,
*U. S. district judge for the southern dist. of Califa.*

Filed Sept. 24th, 1855.
(Signed) C. E. CARR, *Clk.*

In the United States District Court for the southern district of California, special term—Los Angeles, Sept. 1855.

HEIRS OF RAFAEL GOMEZ, app. ads. THE UNITED STATES, appt. } No. 3.—Transcript No. 195.

*Appeal Notice.*

On motion of P. Ord, attorney of the United States for the southern district of California, it is ordered by the court that an appeal be granted the United States to the Supreme Court of the United States, from the judgment of this court against the United States in the above entitled cause, rendered on or about the 24th day of September, A. D. 1855.

(Signed) P. ORD,
*U. S. Dist. Atty.*

Filed Oct. 18th, 1855.
(Signed) C. E. CARR, *Clk.*

UNITED STATES DISTRICT COURT,
*Southern district of California.*

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing ten pages, numbered 1 to ten, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said court of the documentary evidence, and of testimony of witnesses upon which the same is founded, on file in this office in case No. 3 on the docket of the said court, wherein heirs of Rafael Gomez is appellee, and the United States are appellants, for Los Tularcitos.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Los Angeles, California, this [L. S.] twentieth day of December, A. D. 1855, and of the Independence of the United States of America the eightieth.

C. E. CARR, *Clk.*